

**PLANNING AND ZONING COMMISSION
MINUTES
EXECUTIVE SESSION/PUBLIC HEARING/GENERAL MEETING
May 9, 2006**

Place: Rooms 213 & 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Forman, Spain, Kenny

STAFF ATTENDING: Ginsberg, Keating
COURT RECORDER: Syat

At 8:00 P.M., Chairman Damanti read the first agenda item:

ROOM 213: EXECUTIVE SESSION 8:00-8:15 P.M.—To discuss pending litigation.

The Commission met with Attorneys Jim Murphy and Wayne Fox to discuss pending litigation. No motions were made, and no votes were taken.

At 8:40 P.M., the Commission then adjourned to room 206. Chairman Damanti read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing opened on April 25, 2006 regarding **Land Filling & Regrading Application #160, Salvatore & Jennifer Materia, 93 Mansfield Avenue.** Proposing filling, regrading, and installation of retaining walls and performing related site development activities. The subject property is located on the west side of Mansfield Avenue, approximately 20 feet northwest of its intersection with Roland Drive, and is shown on Assessor's Map #17 as Lot #27 in the R-1/3 Zone.

Mr. Ginsberg summarized the application. He noted that this matter was continued from April 25th. This gave Mr. Materia the opportunity to prepare a temporary remediation plan for the trees along the south property line. Mr. Ginsberg reviewed that plan with Mr. Materia, who implemented it on Friday. The neighbor then wanted some additional work done, which was completed soon thereafter by Mr. Materia. Mr. Materia then met on-site at 4:00 P.M. today with the neighbor to the south, and Mr. Ginsberg. Mr. Ginsberg said that all is now satisfactory, and fully in compliance with the proposed temporary remediation plan. He added that the long-term plan will include a retaining wall and fill in this location.

Mr. Materia said that Mr. Ginsberg had accurately summarized the situation. He looks forward to a final resolution of this matter. Ms. Adela Carney said that so far, she appreciates the cooperation of Mr. Materia, and looks forward to the completion of the entire project. She then submitted her letter of May 9th with attachments. There were no other comments or questions from Commission members or the general public. Mr. Conze then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti then read the next agenda item:

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GENERAL MEETING

Final draft Town Plan of Conservation & Development prepared by the Darien Planning & Zoning Commission. This draft plan has been filed in the office of the Town Clerk. *PUBLIC HEARINGS HELD ON JANUARY 24, 2006 AND FEBRUARY 14, 2006.*

Mr. Ginsberg mentioned that the PZ&H Committee of the RTM has discussed this matter and presented their comments to the full RTM. Mr. Damanti said that because of the many agenda items, this will be discussed later in the evening.

Mr. Damanti then read the next agenda item:

Mandatory Referral, BMW/Felix & Sylvia Callari, lease of Town property at 126 Ledge Road.

Request to lease 14,505 square foot section of Town-owned land to store inventory.

Mr. Damanti said that a memo was received from the PZ&H Committee of the RTM, and a May 9, 2006 letter from Attorney Wilder Gleason on behalf of the Callaris. He said that the Commission could hold a public hearing on this project, but must respond within 35 days of receiving the referral. He believed that the request is consistent with the Town Plan of Conservation & Development, and the 14,505 square foot piece of land does not now serve as open space, and cannot really be used for affordable housing. Ms. Forman agreed, stating that this is a unique piece of property in a unique location, and that the proposal is not contrary to the Town Plan.

Mr. Damanti added that it is important one look at the site relative to the Plan. He then said although it is outside of the Commission's purview, he recommends that the lessor have the option upon termination of the lease to have it revert to its natural condition, or to accept the land with the improvements made by Mr. Callari.

Commission members agreed that from a referral standpoint, the request is not inconsistent with the Town Plan, and that the land in this particular place, location and size and access must be considered. Mr. Ginsberg was instructed to write a report summarizing the Commission's comments including the lease option. Mr. Kenny complimented PZ&H on its work in this matter.

Mr. Damanti then read the next agenda item:

Mandatory Referral, Metro Mobile CTS of Fairfield County, lease of telecommunications tower space at 126 Ledge Road. Proposed five (5) year extension to the existing lease.

Mr. Ginsberg summarized the proposal by noting that this a request for a five year extension to the existing lease. Mr. Kenny mentioned that they also propose to increase the height of the tower and the number of panels, and add another provider of service. He said that he has a problem with the height getting more visible, but has no problems with the lease extension. Mr. Conze believed that the proposal is fully consistent with Town plans and policies and Ms. Forman agreed. Mr. Kenny reiterated his concern with the height. It was agreed to continue this discussion on May 23, so that

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staff could research whether a Special Permit would be necessary to increase the height of this tower, and for further discussion on the height issue.

Mandatory Referral, Darien Arts Center, 2 Renshaw Road, R-1/3 Zone.

Proposed ten (10) year extension to the existing lease.

Mr. Damanti said that this proposal seems to be consistent with the Town Plan of Development. It is a great location for this use, and has been within a portion of Town Hall for over ten years. Mr. Ginsberg said that there has been coordination to avoid conflict with Town Hall operations—the primary use of the building. He said that specific parking for the use is designated. Commission members unanimously agreed to have Mr. Ginsberg write a favorable report.

Amendment of Special Permit Application #125-B, Darien Arts Center, 2 Renshaw Road, R-1/3 Zone. Request to amend the existing Special Permit approval to operate the Darien Arts Center within a portion of the Town Hall building.

It was noted by Mr. Spain that the primary use continues to be as a Town Hall. Mr. Damanti specifically referred to the May 5, 2006 memo from the Darien Arts Center regarding their programs. Mr. Conze suggested approving the Special Permit for three years, until May 2009, at which time the applicant shall return to the Planning and Zoning Commission.

Extension of time, Business Site Plan #228/Protected Town Landmark #7-A, Charles Thomas, 21 Tokeneke Road.

Request for extension of time of the June 14, 2006 expiration date to start construction.

Planning and Zoning Commission members reviewed the submitted request from Attorney Robert F. Maslan Jr. The Commission unanimously granted Mr. Thomas until September 3, 2006 to obtain all necessary Zoning and Building Permits and start construction for this project.

Amendment of Business Site Plan #240(2), Dean Glenges, 95 Noroton Avenue, NB Zone

Proposal to locate a drop off dry-cleaner in the space adjacent to Darien Flowers, in the space formerly occupied by the TV Repair shop/ lamp store at 95 Noroton Avenue.

Mr. Ginsberg explained that the existing vacant half of the first floor is proposed to become a drop-off dry cleaners. There will be no trucks or any commercial vehicles stored on-site. No dry cleaning will be done on-site. Commission members unanimously agreed to approve this tenant, with the conditions that there be no storage of commercial vehicles or vans on-site; this is a drop-off dry cleaners only—no dry cleaning done on the premises; and that all operations are in full compliance with the submitted memos and letters.

Mr. Damanti then read the next agenda item:

Amendment to Coastal Site Plan Review #109-A, Land Filling & Regrading Application #136, Ralph & Gail Reynolds, 104 Delafield Island Road, R-1 Zone.

Request to modify previously approved plans, including but not limited to: tree removal; demolition of existing driveway; relocation of proposed pool and cabana; new stone wall, stone piers; additional trees.

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Commission members reviewed the submitted materials and letter from architect James Thompson. Mr. Ginsberg and Mr. Keating summarized the proposed amendments to the previous approvals. They believed that the changes have no impact on coastal resources and there is no substantial increase in regrading. Commission members unanimously agreed to all of the proposed amendments as outlined by Mr. Thompson.

Amendment of Business Site Plan #171-B(2) and Business Site Plan #90-K(2), Thomas E. Golden Realty Co., 1063 Boston Post Road, CBD Zone.

Preliminary discussion regarding proposed Panera Bread bakery/restaurant in lieu of bank and retail on the first floor of the previously approved but not yet constructed building at 1063 Boston Post Road.

Mr. Ginsberg mentioned that Mr. Golden had prepared materials for the Commission's review regarding the proposed tenant—Panera Bread. He explained that this use will require a Special Permit. Mr. Damanti said that this is a great use, and that outdoor dining should be considered for the side walkway adjacent to the building. Mr. Spain said that parking is still the main concern, and a serious problem that needs to be addressed. He added that the bank use was a low-intensity use relative to parking, and that there will need to be more parking provided to meet the higher intensity use proposed.

Mr. Damanti then read the next agenda item. Mr. Spain made a motion to waive the reading of the draft resolutions aloud. That motion was seconded by Ms. Forman and unanimously approved.

Discussion, deliberation and possible decisions on the following six items:

Business Site Plan #205-C, RJ Realty, LLC, 205 Boston Post Road. Proposing to establish a 473 square foot drive-through dry cleaning facility and perform related site development activities within regulated areas. *DECISION DEADLINE: JUNE 1, 2006.*

Mr. Spain had comments on paragraphs 6 and 9 within the draft resolution. Mr. Conze then made a motion to adopt the draft resolution as modified. That motion was seconded by Mr. Spain and approved by a vote of 4-0, with Mr. Kenny abstaining, as he was not at the public hearing on this matter. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 9, 2006**

Application Number: Business Site Plan #205-C

Street Address: 205 Boston Post Road
Assessor's Map #13 Lot #6

Name and Address of Property Owner: RJ Realty, LLC
251 West Norwalk Road
Norwalk, CT 06850

1. This project entails the removal of the existing building, the establishment of a 473 square foot drive-through dry cleaning facility with a modified parking area and landscaping. The subject property is .254+/- acres, and is a corner lot with two front yard setbacks, located entirely within the Service Business East (SB-E) Zone.

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2. The Commission hereby finds the drive-through nature of this business qualifies it as a “Commercial Sales and Services generally requiring external storage or activity”, and is a Principal Permitted Use within the Service Business East (SB-E) Zone (Section 672a of the Darien Zoning Regulations). A prior use of this site was for a fence company, which also had external storage or activity.
3. This use will be for a drop-off only drive-through dry cleaner. No dry cleaning on premises is being requested, and none has been approved. The existing building will be removed. A new 473 square foot building will be constructed on-site, and five parking spaces will be provided.
4. The applicant noted that the Zoning Board of Appeals had recently denied a variance request for this property (Calendar No. 58-2004) to allow a commercial sales and service use without external storage or activity. The applicant also mentioned two previous Planning and Zoning Commission approvals (Business Site Plan #205 and Business Site Plan #205-B) for this property.
5. The Architectural Review Board approved the façade and design of the new building at its meeting of March 14, 2006. That approval is hereby incorporated by reference.
6. As noted by the applicant during the public hearing, the proposed hours of operation are: 6 AM-7 P.M. Monday through Friday; 7-5 Saturday; noon-5 Sunday. There will be a night box for drop-offs during off-hours. The number of employees on-site at any one time will be one or two.
7. The property owner noted that a van will come to the site twice per day to pick up and drop off clothing—shortly after 10 A.M., and again at about 4 P.M.
8. The applicant explained that they expect about 30 vehicles per day to come to the site—about 15 each in the morning and afternoon. Relative to existing traffic volumes on the Boston Post Road, this number is quite low.
9. At the public hearing on March 28, a number of neighbors in the Richmond Drive area noted their concerns with traffic flow; speeding along Richmond Drive; the proposed new curb cut on Richmond Drive; and the existing unusual access and median area on Boston Post Road, which affects eastbound vehicles turning left into Richmond Drive. The Commission acknowledges that there may be traffic issues on Richmond Drive such as cut-through traffic, speeding, and that eastbound vehicles may have difficulty turning left into Richmond Drive. While good cause for increased speed controls, including speed bumps, along Richmond Drive was shown at the hearing, the existing cut-through traffic and speeding issues are within the purview of the Darien Police Department, and cannot be remedied as part of this application proposal. The existing Boston Post Road median design, which has been in place for many years, is within the sole jurisdiction of the State of Connecticut Department of Transportation (DOT). The Commission believes that the new proposed curb cut on Richmond Drive is warranted for this project, and will be used by about 30 vehicles per day. The Commission notes that the Driftwood Diner, which is directly across the street from the proposed dry cleaner, also has a curb cut on Richmond Drive.

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10. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #205-C is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and site development activity, except as modified herein, shall be in conformance with the plans entitled:
- RJ Realty, LLC 205 Boston Post Road, Darien, CT, 02.15.06.
 - Site Plan Depicting Proposed Conditions and Zoning Location Survey prepared for RJC Realty, LLC, 205 Boston Post Road, by William W. Seymour & Associates, dated January 10, 2006 and last revised February 14, 2006.
 - 205 Boston Post Road, Proposed Building Plan View, issued 03-06-06, Sheet 1 of 2 Sheets.
 - 205 Boston Post Road, Proposed Building Elevation Views, issued 03-06-06, Sheet 2 of 2 Sheets.
 - 205 Boston Post Road, Proposed Exterior Lighting Plan, issued 03-06-06, Sheet 3 of 2 Sheets.
- B. The submitted plans show the curb cut onto Boston Post Road being suitably designed so that vehicles cannot turn left onto Boston Post Road from the subject property. The Commission hereby requires that this curb cut onto Boston Post Road be designed similar to First County Bank at 1010 Boston Post Road or Webster Bank at 1101 Boston Post Road, each of which has curbing to impede left hand turns. Revised plans should be submitted reflecting this change.
- C. The submitted plans show Proposed Evergreen Screening of five or six trees between the proposed building and Richmond Drive, as well as some low ground plantings. A more detailed and more substantial Landscaping Plan shall be submitted to the Planning and Zoning Director for review and action prior to the issuance of a Zoning or Building Permit.
- D. All traffic control signage on the property shall be in accordance with the MUTCD. This would include, but not be limited to the "RIGHT TURN ONLY" and "EXIT ONLY" signs at the Boston Post Road curb cut.
- E. Because of the nature of the use, the Commission hereby waives the need for a loading zone under Section 909 of the Zoning Regulations.
- F. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

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- G. All landscaping and all of the proposed site improvements shall be installed per the approved Landscape Plan and other Plans listed in Condition A above, prior to the issuance of a Certificate of Zoning Compliance or a Certificate of Occupancy for the building, unless such planting scheduling is modified by the Planning and Zoning Director in writing for good cause shown. Prior to requesting that Certificate of Zoning Compliance or Certificate of Occupancy for the building, the applicant shall provide to the Planning & Zoning Commission a Certification and necessary As-Built drawings from the surveyor and/or engineer verifying that construction has been completed in accordance with the approved plans.
- H. As noted on the submitted Site Plan, all lighting shall comply fully with Section 232 of the Darien Zoning Regulations.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to a street opening permit from the Public Works Department for the new curb cut on Richmond Drive, and possibly a permit from the State Department of Transportation for modification of the existing curb cut on Boston Post Road.
- K. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 8, 2007). This may be extended as per Section 1028.

All provisions and details of the plans, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Business Site Plan #244/Special Permit, Builderbuilt Holdings, LLC, 70 Tokeneke Road. Proposing to construct a new office building with related landscaping and parking and perform related site development activities. *DECISION DEADLINE: JUNE 1, 2006.*

Mr. Spain had minor comments on the draft resolution. Ms. Forman then made a motion to adopt the draft resolution as modified. That motion was seconded by Mr. Spain and approved by a vote of 3-0, with Mr. Damanti and Mr. Kenny abstaining, as they were not at the public hearing on this matter. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
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Application Number: Business Site Plan #244/Special Permit
Builderbuilt Holdings, LLC

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Street Address: 70 Tokeneke Road
Assessor's Map #38 Lot #2

Name and Address of Property Owner: Builderbuilt Holdings, LLC
270 Greenwich Avenue
Greenwich, CT 06830

Name and Address of Applicant Richard Donnelly
and Applicant's Representative: 25 Tremont Avenue
Stamford, CT 06906

Activity Being Applied For: Proposing to construct a new showroom/office building with related landscaping and parking and perform related site development activities.

Property Location: The subject property is located on the northeast side of Tokeneke Road, directly across from the I-95 Exit 12 on-ramp (southbound).

Zone: DC

Date of Public Hearing: March 28, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: March 16 & 23, 2006

Newspaper: Darien News-Review

Date of Action: May 9, 2006

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of
Action: May 18, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 630, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

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1. This project is to construct a new showroom/office building with related landscaping and parking and perform related site development activities. The 19,193 square foot property is now undeveloped, vacant land.
2. The building is proposed to have a 2,500 square foot basement for storage and a mechanical room; a 2,500 square foot first floor, a 2,250 square foot second floor. The first floor would be a showroom/display area of built-in cabinetry, millwork and lighting with consulting areas and offices. The second floor would be entirely office space. The applicant specifically noted at the public hearing that the first floor would not be a retail sales area with multiple brands on display, from which clients would pick up a product and purchase it and carry it out of the building. The first floor would be an office where designers could meet with clients and show them the displays and examples of products and consult with them about what the client wants to order for installation at other locations.
3. The first floor space to be used as Business and Professional Offices is a Special Permit Use within the Designed Commercial (DC) Zone, as specifically stated in Section 634e of the Darien Zoning Regulations. Section 634e states "...the parking ratio for those uses shall be equivalent to that for Commercial Sales and Services." This could allow the future conversion of the first floor of the building to commercial sales and services. In this case, the applicant has shown in a Zoning Chart, a requirement according to the Zoning Regulations for a total of 34 parking spaces--25 parking spaces for the first floor space, and 9 spaces for the second floor space. A total of 25 parking spaces are being provided.
4. The Commission specifically finds that the proposed use, a showroom/display area, is a unique, low-intensity use. Thus, the Commission has the ability, under Section 904t of the Darien Zoning Regulations, to determine what parking ratio is appropriate for those uses not specifically listed in the Zoning Regulations. In this case, the Commission finds that sufficient parking has been provided for the proposed use. This design, with only 25 on site parking spaces will prohibit the future conversion of the building to commercial sales and services or any other use that creates a higher parking requirement than the 25 spaces being provided on the site.
5. At the public hearing and contained in the applicant's March 23, 2006 one-page letter to David Keating, the applicant noted that six to eight employees (4-5 designers/"specifiers" and 2-5 support staff) would be present routinely, and that there would be very few customer visits. Meetings would be by appointment.
6. The Commission notes that the property will be served by an on-site septic system. The Darien Health Department sent comments on the referral "Septic Plans have been approved for this site pending additional soil tests".
7. The Architectural Review Board approved the building design of this project on March 14, 2006. That approval included the design of the cupola/light well on the roof. That approval is hereby incorporated by reference.

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8. A March 23, 2006 letter from the Housewright Guild (the applicant) was submitted for the record. That letter notes that there will be no shipping and receiving of building goods from the building. This site is not to be used as a building contractor's storage yard or work depot.
9. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
10. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
11. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
12. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
13. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #244/Special Permit is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and site development activity, except as modified herein, shall be in conformance with the plans entitled:
 - Landscape Plan 70 Tokeneke Road (lot B) Builderbuilt Holdings, LLC, by Model Properties, dated March 7, 2006 and last revised March 25, 2006 (add light post and flag pole), Sheet 1 of 1.
 - Site Plan Prepared for Builderbuilt Holdings, LLC, by Savarese and Schefiliti, dated June 13, 2005 and last revised 2-9-06, Sheet 1 of 3.
 - Notes Prepared for Builderbuilt Holdings, LLC, by Savarese and Schefiliti, dated June 13, 2005 and last revised 2-9-06, Sheet 2 of 3.
 - Details Prepared for Builderbuilt Holdings, LLC, by Savarese and Schefiliti, dated June 13, 2005 and last revised 2-9-06, Sheet 3 of 3.
 - Housewright Guild Design Center, 70 Tokeneke Road, Sheet Title: Foundation Plan Lower Level Plan Legends, last revised 2/7/06, Sheet Number: A-1.
 - Housewright Guild Design Center, 70 Tokeneke Road, Sheet Title: First Floor Plan Second Floor Plan, undated, Sheet Number: A-2.
 - Housewright Guild Design Center, 70 Tokeneke Road, Sheet Title: Elevations, undated, Sheet Number: A-3.

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- B. The plan entitled, "Notes Prepared for Builderbuilt Holdings, LLC, by Savarese and Schefiliti, dated June 13, 2005 and last revised 2-9-06, Sheet 2 of 3" shall modify #9 and #11 listed in the Survey Notes to reflect that the building footprint is 2,500 square feet; that the building floor area is 4,750 square feet, and that 34 parking spaces would normally be required, but the Commission has the ability, under Section 904t of the Darien Zoning Regulations, to determine what parking ratio is appropriate for those uses not specifically listed in the Zoning Regulations. In this case, the Commission finds that sufficient parking has been provided for the proposed use of storage in the basement, a showroom/display and consulting area on the first floor and offices on the second floor. This design, with only 25 on site parking spaces will prohibit the future conversion of the building to commercial sales and services or any other use that creates a higher parking requirement than the 25 spaces being provided on the site. This Plan shall be revised and submitted to the Planning and Zoning Department prior to the issuance of a Zoning Permit.
- C. The Site Plan shall be revised to modify the backup area behind parking space #20 so that it complies with the Darien Zoning Regulations. This Plan shall be revised and submitted to the Planning and Zoning Department prior to the issuance of a Zoning Permit.
- D. Use of and operating procedures for the building shall be as described above and as per the March 23, 2006 one-page letter from Housewright Guild to David Keating. This includes: few employees, showroom/display area, lack of products being carried out of the building, meetings by appointment; no shipping or receiving building goods from the building; some evening meetings with clients.
- E. In a memo dated March 9, 2006, the EPC suggests that the catch basins be directed to either an oil/particle separator or a hydrodynamic separator before overflowing to the galleries. A revised plan reflecting this change shall be submitted for review and action by the Planning and Zoning Director prior to the issuance of a Zoning or Building Permit for the new building.
- F. The plans include the installation of a 35 foot tall flag pole in the area adjacent to the front property line. The flag(s) displayed must not be commercial in nature (see the definition of 'sign' in Section 210 of the Darien Zoning Regulations, and the flags must be properly sized so that they do not create any safety hazard or other conflict with the adjacent utility wires.
- G. All landscaping and all of the grading, drainage, and proposed site improvements shall be installed per the approved Landscape Plan and other Plans listed in Condition A above, prior to the issuance of a Certificate of Zoning Compliance or a Certificate of Occupancy for the building.
- H. A final as-built drawing and certification shall be submitted by a professional engineer confirming that the entire project, including the required drainage, lighting, parking, curbing, sidewalks, landscaping, and other site development features have been properly completed per the approved plans, as noted in Condition A, above. This certification shall be submitted prior to the issuance of a Certificate of Occupancy for the project, and/or use of the proposed building.

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- I. As noted on the submitted Site Plan, all lighting shall comply fully with Section 232 of the Darien Zoning Regulations.
- J. Because the property is served by an on-site septic system, and because of parking issues, any potential re-use of the property and/or new tenant shall require prior review and action by the Planning and Zoning Commission to determine and ascertain that the tenant and its customers does not overburden the on site parking and/or the septic system as designed herein.
- K. In a March 23, 2006 one-page letter from Housewright Guild to David Keating, the applicant notes that "We will have in the near future the ability to lease the DOT property along I95, and abutting our parking lot if ever needed. This has been investigated in detail..." The Commission hereby takes cognizance of this ability to provide extra parking if necessary. If, in the future, the Commission notes that the intensity of the use has changed or that a subsequent tenant(s) requires additional parking, additional off-street parking shall be constructed on DOT property.
- L. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- M. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- N. The granting of this Business Site Plan/Special Permit approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to a permit from the State Department of Transportation for the creation of a curb cut on Tokeneke Road.
- O. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 8, 2007). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plans, as approved or as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit shall be filed in the Darien Land Records within 60 days of this approval.

Mr. Damanti then read the next agenda item:

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Coastal Site Plan Review #65-A, Guy W. Fiske, 85 Ring's End Road. Proposing to construct additions and alterations to the existing residence, construct an on-grade terrace, and perform related site development activities within a regulated area.

Mr. Conze made a motion to adopt the draft resolution. That motion was seconded by Mr. Spain and approved by a vote of 3-0, with Mr. Damanti and Mr. Kenny abstaining, as they were not at the public hearing on this matter. The adopted resolution read as follows:

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Application Number: Coastal Site Plan Review #65-A

Street Address: 85 Ring's End Road
Assessor's Map #50 Lot #17

Name and Address of
Property Owner: Guy W. Fiske
85 Ring's End Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Mark S. Lebow
William W. Seymour & Assoc.
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to construct additions and alterations to the existing residence, construct an on-grade terrace, and perform related site development activities within a regulated area.

Property Location: The subject property is on the north side of Ring's End Road, approximately 950 feet east of its intersection with Swift's Lane.

Zone: R-1

Date of Public Hearing: April 25, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: April 13 & 20, 2006

Newspaper: Darien News-Review

Date of Action: May 9, 2006

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
May 18, 2006

Newspaper: Darien News-Review

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The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400 and 810 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct additions and alterations to the existing residence, construct an on-grade terrace, and perform related site development activities within a regulated area.
2. The Environmental Protection Commission approved an application for this project (EPC #25-2006) on April 5, 2006. That decision is hereby incorporated by reference. This includes the requirement for a revised planting plan.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures, which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #65-A is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The proposed activities shall be in accordance with the following plans submitted to and reviewed by the Commission:

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- Zoning Location Survey, #85 Rings End Road prepared for Guy W. Fiske, by William W. Seymour & Associates, scale 1"=30', dated January 11, 2006.
 - Addition & Alterations to Fiske Residence 85 Rings End Road by James Schettino Architects, dated 03/31/04, last revised 2/22/06, Dwg. A-1 of 2 and A-2 of 2.
- B. The applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the relocation of the water line and until the area has been revegetated and restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Once the additions and site work are completed, and prior to the use of the additions or issuance of a Certificate of Occupancy, a final "as-built" drawing along with written verification prepared by the project architect is hereby required, to certify that the site improvements adjacent to the coastal recourses are all in compliance with the approved plans and in accordance with the conditions and stipulations of the EPC permit.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- F. This permit shall be subject to the provisions of Section 815 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (May 8, 2007). This may be extended as per Section 815.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Damanti then read the next agenda item:

Coastal Site Plan Review #125-D, Flood Damage Prevention Application #123-D, John B. Ward, 32 Beach Drive. Proposing to repair and maintain an existing seawall and concrete boat launch ramp and perform related site development activities within regulated areas.

Mr. Conze made a motion to adopt the draft resolution. That motion was seconded by Mr. Spain and approved by a vote of 3-0, with Mr. Damanti and Mr. Kenny abstaining, as they were not at the public hearing on this matter. The adopted resolution read as follows:

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Application Number: Coastal Plan Site Review #125-D
Flood Damage Prevention Application #123-D

Assessor's Map #53, Lot #6

Name and Address of Property Owner: John B. Ward
32 Beach Drive
Darien, CT 06820

Name and Address of Applicant And Applicant's Representative: John Roberge, PE
Roberge Associates Coastal Engineers, LLC
Foot of Broad Street, Suite 105
Stratford, CT 06615

Activity Being Applied For: Proposing to repair and maintain an existing seawall and concrete boat launch ramp and perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Beach Drive approximately 230 feet south of its intersection with Outlook Drive.

Zone: R-1/2 Zone

Date of Public Hearing: April 25, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 13 & 20, 2006

Newspaper: Darien News-Review

Date of Action: May 9, 2006

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

May 18, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is

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contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is to repair and maintain an existing seawall and concrete boat launch ramp and perform related site development activities within regulated areas.
2. The Environmental Protection Commission approved an application for this project (EPC #4-2006) on April 5, 2006. That decision is hereby incorporated by reference. This includes the requirement for a planting plan.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
6. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #125-D and Flood Damage Prevention Application #123-D are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction activity shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Notes & Vicinity Map, Ward Residence Seawall Repair Design 32 Beach Drive, by Roberge Associates Coastal Engineers, LLC, dated 8-29-05, Sheet No. D1 of 3.
 - Existing Sections, Proposed Plan & Erosion Control Detail, Ward Residence Seawall Repair Design 32 Beach Drive, by Roberge Associates Coastal Engineers, LLC, dated 8-29-05, Sheet No. D2 of 3.

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- Proposed Sections & Details, Ward Residence Seawall Repair Design 32 Beach Drive, by Roberge Associates Coastal Engineers, LLC, dated 8-29-05, Sheet No. D3 of 3.
 - Ward Residence Seawall Repair Holly Pond, John B. Ward, 32 Beach Drive, by Roberge Associates Coastal Engineers, LLC, revised 6-15-05, Sheets 2-5.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. The applicant or owner shall submit certification from a licensed architect or professional engineer that the structures have been designed to withstand all flood forces and comply with the flood damage prevention requirements for structural stability.
- D. When the construction is nearing completion, written certification shall be provided from a registered Professional Architect or Professional Engineer that the construction has been completed in conformance with this permit and the Zoning Regulations. This certification shall be provided to the Planning and Zoning Department prior to the issuance of a Certificate of Zoning Compliance, per Section 829e of the Darien Zoning Regulations.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this approval as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (May 8, 2007). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Damanti then read the next agenda item:

Land Filling & Regrading Application #161, Wendell Anderson, 36 Huckleberry Lane.

Proposing to place fill between the garage and the property line, and construct and associated retaining wall, and perform related site development activities.

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Ms. Forman made a motion to adopt the draft resolution. That motion was seconded by Mr. Spain and approved by a vote of 3-0, with Mr. Damanti and Mr. Kenny abstaining, as they were not at the public hearing on this matter. The adopted resolution read as follows:

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Application Number: Land Filling & Regrading Application #161

Street Address: 36 Huckleberry Lane
Assessor's Map #1 Lot #79

Name and Address of Applicant & Wendell Anderson
Property Owner: Post & Beam, LLC
 46 Rowayton Ave.
 Rowayton, CT 06853

Activity Being Applied For: Proposing to place fill between the garage and the property line, and construct an associated retaining wall, and perform related site development activities.

Property Location: The subject property is on the south side of Huckleberry Lane, approximately 950 feet east of its intersection with Brookside Road.

Zone: R-2 Zone

Date of Public Hearing: April 25, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 13 & 20, 2006

Newspaper: Darien News-Review

Date of Action: May 9, 2006

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

May 18, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is

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contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to place fill between the garage and the property line, and construct and associated retaining wall, and perform related site development activities. Two issues were discussed at the public hearing on this matter—drainage and screening.
2. Relative to drainage, the applicant noted that he is trying to run the water via gravity to a catch basin. A Belgian block apron will prevent water from Huckleberry Lane getting into the driveway. The applicant, Mr. Anderson, stated that there will be a check valve installed and that the roof gutters will tie into the storm drains. At the public hearing, he agreed to the installation of a drain in the middle of the driveway pad at approximately elevation 97.7, and that the elevation of the driveway pad should be about the same so there is a low point in the middle. This will reduce the amount of water that could flow toward the adjacent property at 32 Huckleberry Lane if the gravity drain to the street were to become clogged.
3. At the public hearing, the applicant noted some screening of the property to the east (Bieler/32 Huckleberry Lane) will be from the installation of at least five 6'-8' high spruce trees planted "zig-zag" in this general area (between the house and the common property line), with a three foot gap between trees at the most. A proposed retaining wall ranging in height from 6 to 18 inches will be installed about seven feet from the east property line.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #161 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading shall be in accordance with the following plan submitted to and reviewed by the Commission:
 - Color coded, hand annotated version of a portion of the plan entitled, "Plot Plan of property prepared for Wendell Anderson, #36 Huckleberry Lane, by Arcamone Land Surveyors, scale: 1"=20', dated July 21, 2005."
- B. The applicant shall install drainage as noted in finding #2 above (with a drain in the middle of the driveway pad at approximately elevation 97.7), and shall install the 6'-8' high spruce trees near the east property line as noted in finding #3 above.

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- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond. Upon completion of the regrading and drainage work, and prior to the issuance of a Certificate of Zoning Compliance and/or Certificate of Occupancy, the applicant shall provide written verification and photographs documenting completion of the project and compliance with the approved plans.
- D. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies). If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (May 8, 2007). This may be extended as per Sections 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Damanti then read the next agenda item:

Business Site Plan #124-E/Special Permit, Ching's Kitchen/Dolcetti Inc., 973 Boston Post Road. Proposing to install a walk-in refrigerator adjacent to the rear of the existing building and continue the use of a portion of the third floor for restaurant storage space.

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Mr. Conze made a motion to adopt the draft resolution as written. That motion was seconded by Mr. Spain and approved by a vote of 3-0, with Mr. Damanti and Mr. Kenny abstaining, as they were not at the public hearing on this matter. The adopted resolution read as follows:

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ADOPTED RESOLUTION
May 9, 2006**

Application Number: Business Site Plan #124-E/Special Permit
Chings Kitchen/Dolcetti, Inc., 973 Boston Post Road

Assessor's Map #73 Lot #30

Name and Address of Property Owner: Dolcetti, Inc.
9 Red Mill Lane
Darien, CT 06820

Name and Address of Applicant and Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Brown & Associates, LLP
9 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to install a walk-in refrigerator adjacent to the rear of the existing building and continue the use of a portion of the third floor for restaurant storage space.

Property Location: The subject property is on the north side of Boston Post Road, approximately 225 feet east of its intersection with Day Street.

Zone: CBD

Date of Public Hearing: April 25, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 13 & 20, 2006

Newspaper: Darien News-Review

Date of Action: May 9, 2006

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

May 18, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This project consists of two parts—1) the installation of a walk-in refrigerator adjacent to the rear of the existing building and 2) the continued use of a portion of the third floor for restaurant storage space.
2. During the public hearing, the applicant noted that a water-wash venting system will be installed to accommodate the new restaurant. Hood system plans were submitted for the record in this matter.
3. The Darien Health Department has approved the proposed food service layout and equipment plans.
4. The Zoning Board of Appeals granted Calendar #29-2006 on April 19, 2006. That approval is hereby incorporated by reference.
5. At the public hearing, the applicant submitted a number of prior approvals for this site and this property since 1995, including Calendar #4-1995 and #25-2005 approved by the Zoning Board of Appeals, and Business Site Plan #124-B/Special Permit and Business Site Plan #124-D approved by the Planning & Zoning Commission.
6. At the public hearing, the applicant noted that the proposed Ching's Kitchen restaurant will have 50 seats. This is an increase over the 38 seats that were in the former Dolcetti's Restaurant. The submitted Floor Plans show 50 seats within the proposed Ching's Kitchen restaurant. No outdoor seating has been proposed as part of this application, and none has been approved.
7. The Commission specifically notes that although the number of seats within the restaurant is increasing by 12 (about 30%) over the prior Dolcetti's Restaurant which occupied this site, that the installation of the walk-in cooler/freezer and the continued usage of the third floor of the building as storage for the restaurant, do not in and of themselves create an impact on parking, and therefore, there is no practical increase in the amount of square footage used for the restaurant. The Commission believes that this application will have only a minor impact on parking, and that a necessary variance has been granted by the ZBA (as noted above).
8. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

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9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #124-E/Special Permit is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the walk-in cooler/freezer and third floor usage for storage for the restaurant shall be in conformance with the plans entitled:
 - Floor Plan, Front Elevation, Section, Store Front Alteration to Existing Restaurant “Ching’s Kitchen”, 971 Post Road by Tucker Chase Architect.
 - Interior Elevations New Restaurant “Ching’s Kitchen” @ exist. “Dolcetti’s”, 971 Post Road by Tucker Chase Architect, last revised March 9, 2006.
 - Site Plan, Floor Plans, Demolition Plan, Structural Revisions, Equipment Schedule, New Restaurant “Ching’s Kitchen” @ exist. “Dolcetti’s”, 971 Post Road by Tucker Chase Architect.
- B. Installation and maintenance of the water wash venting system is imperative to minimize any potential odors to other adjacent businesses and the surrounding area. All equipment to be installed shall be maintained by the applicant. All hood and venting systems shall be fully installed and operational prior to the issuance of a Certificate of Occupancy for the restaurant. If noticeable and/or nuisance odors or emissions are created by the use, the operator must correct said violations immediately upon notification of the problem by the Commission or its staff.
- C. The existing outdoor trash facility area shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage. The applicant is responsible for maintaining this shared trash area, including ensuring that it is emptied frequently enough to minimize odors.
- D. All deliveries to the premises shall use the entrance at the rear of the building (adjacent to the parking lot), not the front door adjacent to the Boston Post Road. All deliveries must be scheduled to minimize impacts to the other tenants, and to minimize parking conflicts with other businesses.
- E. No request for exterior seating was included as part of this application. Any such request will require subsequent review and action by the Planning & Zoning Commission.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- G. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 8, 2007). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plans, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

At 9:50 P.M., Mr. Damanti then read the next agenda item:

Deliberation and discussion only regarding the following three items:

Business Site Plan #245, HSBC, 151-165 Boston Post Road. Proposing to establish a bank with associated parking and landscaping and perform related site development activities. *DECISION DEADLINE: JUNE 12, 2006.*

Mr. Damanti recused himself from this matter, and left the room. Mr. Conze then chaired the meeting. Mr. Kenny mentioned that it will be difficult to make left turns out of the site. Mr. Conze said that it will be up to the customers to tolerate this tough situation. Mr. Spain suggested a finding within any draft resolution mentioning that although Boston Post Road is within the State of Connecticut jurisdiction, that there be traffic controls considered in the future in this area.

Mr. Damanti then returned to the room and read the next agenda item:

Coastal Site Plan Review #215, Flood Damage Prevention Application #234, Douglas & Rebecca Munro, 102 Ring's End Road. Proposing to construct additions and alterations to the existing residence and perform related site development activities within regulated areas.

Mr. Damanti noted that he was not at the public hearing on this matter. Mr. Spain believed that it was a well done proposal. Mr. Conze said that he had no problems with the application. Mr. Damanti said that he would be abstaining on the vote on this application.

At 10:00 P.M., Mr. Damanti then read the next agenda item:

Business Site Plan #156-A, Darien-Rowayton Bank/Dolcetti, Inc., 995-1003 Boston Post Road. Proposing to raze the existing buildings at 995 and 1003 Boston Post Road (on Lots #27 and #28) and to construct a new mixed-use building with related landscaping, open space plaza, and parking, and to perform related site development activities. A shared parking agreement with 975-987 Boston Post Road and 2 Squab Lane (Lots #29, #30, and #34) is proposed to serve all of the subject properties. *DECISION DEADLINE: JUNE 18, 2006.*

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Mr. Damanti summarized the proposal. Mr. Spain said that having a coordinated application is positive. The vagaries within the application cause some concern. At the first public hearing, some information was woefully deficient, and were addressed to some extent at the continuation of the public hearing. Not the application is only somewhat deficient relative to the second and third phases of the project. The open stairway from the train station parking lot is positive. The open space on the plaza is open space that the project as a whole presents to allow the basement use within the bank building. The bank basement use is okay with that plaza. He said that he is inclined to approve the bank, and possibly building "B" as well, but there is not enough parking for the proposed buildings beyond that. He believed that the changing of the Grove Street parking lot for public parking may help make sufficient parking available.

Ms. Forman said that after reviewing both parking reports, she believed that this project pushes the envelope too far. Only 9% of the required parking is provided, and that is too little. She said that it is strange that no one spoke against this big project, and that she believed that small business owners will be impacted. Mr. Spain agreed that it would have been helpful to hear from small businesses in the area.

Mr. Conze said that he is in favor of this master-planned project. He believed that it is a very well conceived project. He said that the parking issue is global, and that this is a very good application. The parking regulations are not applicable today, and people will park at other locations and walk to multiple destinations. A parking problem is good to have and that the regulations are antiquated and need to be revised. Ms. Forman said that the number of parking spaces needed will be much greater than what is to be provided. Mr. Conze responded that Mr. Mirsky had no experience in Greenwich, Westport or New Canaan, and he is way off base.

Mr. Damanti responded that Mr. Mirsky is not way off base. He added that the Commission needs to apply the zoning regulations as they now exist. Both parking consultants (Barkan and Mess and Mr. Mirsky) said that the provided parking is not adequate. He asked at what point is the "slack" gone, and Mr. Mirsky said that the project does not work. Mr. Damanti continued by noting that he has problems with the application, and as a bank, Phase I works. He asked where then end of the "slack" is.

Mr. Kenny believed that Mr. Mirsky should know more about Greenwich, Westport and New Canaan, and agreed with Mr. Conze in that regard. He was disappointed that there are no third floor apartments proposed for Phase II. He said that if people are willing to walk ¼ mile, than there is enough parking for this project. He added that the theater redevelopment has not caused a parking problem. The Commission should approve the concepts of the Dolcetti buildings and the types of uses. He added that the conversion of the Grove Street parking lot from commuter to municipal parking would help downtown. Ms. Forman agreed that additional expanded parking possibilities in the downtown area are needed and suggested possibly double-decking the Leroy West parking lot.

Mr. Spain then referred to page 7 of Mr. Ginsberg's April 28, 2006 memo. He said that he is concerned about approaching the saturation point. The downtown has an advantage of many parking lots. There is enough parking for the first phase, but not enough for the second phase, unless the Grove Street lot is converted entirely for use by shoppers. This 55+/- spaces will make a difference. Mr. Spain said that the applicant will need to return to the Commission for Phase II

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relative to specific details regarding the application, such as dumpsters for the back building. Mr. Damanti confirmed that there is a need for a formal application for Phase II, and that the Commission needs to look at the bigger picture. Recent development in downtown has not been spread out, but concentrated on one side of the railroad tracks.

Mr. Kenny referred to the recent approval for Roundabout, which was approved despite objections from neighboring business owners. This business has not caused any parking problems. Parking meters were then briefly discussed.

Because of the late hour, and the fact that Mr. Bigelow was not present this evening, the Commission decided to continue deliberations on this matter to May 16 at 8PM., in room 119 of Town Hall. Mr. Damanti mentioned that if Mr. Bigelow cannot attend, then the meeting will be another day and time.

Mr. Damanti then read the next agenda item:

Approval of Minutes

February 14, 2006 Public Hearing/General Meeting

Ms. Forman made a motion to approve the February 14, 2006 Public Hearing/General Meeting minutes with minor typographical corrections. That motion was seconded by Mr. Spain and approved by a vote of 4-0, with Mr. Conze abstaining, as he was not at that meeting.

April 18, 2006 General Meeting

Ms. Forman made a motion to approve the April 18, 2006 General Meeting minutes with minor typographical corrections. That motion was seconded by Mr. Spain and approved by a vote of 3-0, with Mr. Conze and Mr. Kenny abstaining, as they were not at that meeting.

April 25, 2006 Public Hearing

Mr. Conze made a motion to approve the April 25, 2006 Public Hearing minutes as written. That motion was seconded by Ms. Forman and approved by a vote of 3-0, with Mr. Conze and Mr. Kenny abstaining, as they were not at that meeting.

There being no other business, the meeting was then adjourned at 10:50 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director